

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
(EASTERN DIVISION)

In re:)	
)	Case No. 17-45907
TMR, LLC, et al., (Lead Case))	Jointly Administered Under Chapter 11
)	
Debtors.)	
)	
In re TIMOTHY & LONA ROEWE,)	Case No. 17-47469
)	Hearing Date: September 2, 2020
)	Hearing Time: 2:00 p.m.
)	Location Courtroom 5 North

**CREDITOR PLASTIC FILM CORPORATION, INC.'S OBJECTION TO
DEBTORS' APPLICATION FOR ENTRY OF FINAL DECREE**

COMES NOW Creditor Plastic Film Corporation, Inc., by its undersigned attorneys, and for its Objection to Debtors' Application for Entry of Final Decree states as follows:

1. Debtors Timothy M. Roewe and Lona S. Roewe (the "Debtors") filed their chapter 11 case on October 30, 2017 along with two of their corporate entities TMR, LLC and DAC, Inc. All three cases were consolidated into Case No. 17-45907 to be jointly administered.

2. Prior to the bankruptcy filing by Debtors, Creditor Plastic Film Corporation had brought suit in Franklin County, Missouri against Timothy Roewe and Lona Roewe **individually**, as well as DAC, Inc. and another of the Roewe's companies for fraud, fraudulent conveyance, to enforce action on account and for quantum meruit. *Exhibit 1, Petition.*

3. As discussed more fully in Creditor Plastic Film Corporation's Petition, Plastic Film Corporation and Debtors entered into negotiations for the sale of goods from Plastic Film Corporation to Debtors. *Exhibit 1, Petition.* At the time of the negotiations, Debtors represented to Plastic Film Corporation that in exchange for the goods, they would pay \$39,990.46. *Exhibit 1, Petition.* When Debtors made these representations, Debtors knew those representations to be false and made them with the intent to induce Plastic Film Corporation to deliver the goods as described

in Plastic Film Corporation's Proof of Claim. *Exhibit 1, Petition*. This state court case has been stayed since 2017 pending resolution of the bankruptcy action.

4. Debtors listed Plastic Film Corporation, Inc., as the holder of an unsecured claim and Plastic Film Corporation filed a claim for \$39,990.46. (Doc. 20). Debtors then filed an objection to the claim of Plastic Film Corporation, stating that "said claim is not for a debt of this Debtor." (Doc. 78). The individual Roewe debtors objected to Creditor Plastic Film Corporation's claim being filed in both the DAC, Inc. and individual debtor Roewe bankruptcy cases, even though both cases had been consolidated with the TMR bankruptcy action.

5. On February 27, 2019, Creditor Plastic Film Corporation's unsecured claim was allowed against Debtor DAC, Inc., in case No. 17-48021 for \$39,990.46. *Exhibit 2*.

6. On November 7, 2018, the Third Amended Plan of Reorganization was confirmed. *Exhibit 3*. The Third Amended Plan provided for payments by TMR, DAC, Inc., and the individual debtors Tim and Lona Roewe, and provided that:

Holders of Allowed General Unsecured Claims against DAC are to receive a pro rata share of \$80,000 payable over five years commencing October 1, 2019, which distributions DAC has projected to be between 15 cents and 34 cents on the dollar depending upon the aggregate amount of Allowed General Unsecured Claims against DAC. This Plan also provides for the payment of Allowed Administrative Expense Claims against DAC on the Effective Date or as agreed; and Allowed Priority Claims over a period of five years.

Exhibit 4, p. 1-2.

7. Creditor Plastic Film Corporation did not receive a payment in October of 2019. Attorneys for Creditor Plastic Film Corporation emailed the attorney for DAC, who stated that he no longer represents DAC and that we needed to contact the debtor DAC directly.

8. Creditor Plastic Film Corporation does not believe that the Debtors plan on making the payment to unsecured creditors as set out in the Third Amended Plan. Debtors' Application for Entry of Final Decree states that less than half of the Debtors attorneys' fees and expenses have been paid and only 1 of the unsecured creditors has been paid to date.

9. Further, Debtors Timothy M. Roewe and Lona S. Roewe's Application for Entry of Final Decree has not been filed in their bankruptcy action, Case No. 17-47469, only in the TMR action which was closed on May 8, 2020.

10. For all of the foregoing reasons, Creditor Plastic Film Corporation requests this Court dismiss Case No. 17-47469 so that Plastic Film Corporation can proceed with its remedy against these Debtors in the pending state court proceeding.

WHEREFORE Creditor Plastic Film Corporation, Inc., requests that this Court enter its dismissing Case No. 17-47469 to allow the currently stayed state court case to be reopened by Creditor Plastic Film Corporation, Inc., against Debtors Timothy M. Roewe and Lona S. Roewe, and for such other and additional relief as the Court deems appropriate.

Respectfully submitted,

DOWD & DOWD, P.C.

By: /s/ Laura Lumaghi
RICHARD K. DOWD (MO33383)
LAURA G. LUMAGHI (MO50816)
211 N. Broadway, Suite 4050
St. Louis, Missouri 63102
(314) 621-2500
Fax: (314) 621-2503
richard@dowdlaw.net
laura@dowdlaw.net

Attorneys for Plastic Film Corporation, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 1st day of September, 2020, a copy of the above and foregoing was electrically filed with the United States Bankruptcy Court, Eastern District of Missouri, pursuant to the Case Management/Electronic Case Filing system of the Court, and electronic notice of such filing was served by the Office of the Clerk upon parties in interest registered in such Case Management/Electronic Case Filing system with respect to this case.

/s/ Laura Lumaghi